



February 9, 2005

## HOUSE BILL No. 1066

DIGEST OF HB 1066 (Updated February 2, 2005 4:16 pm - DI 103)

**Citations Affected:** IC 6-2.5; IC 6-3; IC 6-3.1; IC 36-7; noncode.

**Synopsis:** Military base development incentives. Designates each certified technology park located within a radius of five miles of the Crane military base as a qualified military base enhancement area. Extends the following incentives currently applicable to businesses located on closed military bases to businesses that are located in the qualified military base enhancement area and meet certain criteria: (1) The sales tax exemption for electricity purchases. (2) The reduced corporate adjusted gross income tax rate. (3) The investment credit. Authorizes two or more redevelopment commissions to enter into a written agreement to jointly undertake economic development projects in the certified technology parks established by the parties to the agreement. Requires the department of environmental management to give priority to permit applications concerning certain military bases or installations.

**Effective:** July 1, 2005; January 1, 2006.

**Koch, Welch, Borders, Woodruff**

January 6, 2005, read first time and referred to Committee on Commerce, Economic Development and Small Business.

February 8, 2005, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1066—LS 6752/DI 92+



February 9, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1066

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-2.5-4-5 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) As used in  
3       this section, a "power subsidiary" means a corporation which is owned  
4       or controlled by one (1) or more public utilities that furnish or sell  
5       electrical energy, natural or artificial gas, water, steam, or steam heat  
6       and which produces power exclusively for the use of those public  
7       utilities.

8       (b) A power subsidiary or a person engaged as a public utility is a  
9       retail merchant making a retail transaction when the subsidiary or  
10      person furnishes or sells electrical energy, natural or artificial gas,  
11      water, steam, or steam heating service to a person for commercial or  
12      domestic consumption.

13      (c) Notwithstanding subsection (b), a power subsidiary or a person  
14      engaged as a public utility is not a retail merchant making a retail  
15      transaction in any of the following transactions:

16          (1) The power subsidiary or person provides, installs, constructs,  
17          services, or removes tangible personal property which is used in

HB 1066—LS 6752/DI 92+



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connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

- (i) relocates all or part of its operations to a facility; or
- (ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, ~~or~~ a military base recovery site designated under IC 6-3.1-11.5, **or a qualified military base enhancement area established under IC 36-7-34.**

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

**(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area, the business must satisfy at least one (1) of the following criteria:**

- (i) The business is a participant in the technology transfer program conducted by the qualified military**

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base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 2. IC 6-3-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. (a) As used in this section, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
  - (2) a military base reuse area established under IC 36-7-30;
  - (3) an economic development area established under IC 36-7-14.5-12.5; or
  - (4) a military base recovery site designated under IC 6-3.1-11.5;
- or
- (5) a qualified military base enhancement area established under IC 36-7-34.**

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years. **In the case of a corporation that locates all or part of its operations in a qualified military base enhancement area, the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:**

- (1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).**
- (2) The corporation is a United States Department of Defense contractor.**

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**(3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States Department of Defense.**

(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

- (1) the taxpayer had existing operations in the qualified area; and
- (2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(e) The department of state revenue:

- (1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and
- (2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 3. IC 6-3.1-11.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
- (2) a military base reuse area established under IC 36-7-30;
- (3) an economic development area established under IC 36-7-14.5-12.5; ~~or~~
- (4) a military base recovery site designated under IC 6-3.1-11.5;

**or**

**(5) a qualified military base enhancement area established under IC 36-7-34.**

SECTION 4. IC 6-3.1-11.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. (a) **Subject to subsection (c)**, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the

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taxable year.

(c) **This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area. To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:**

(1) **The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).**

(2) **The business is a United States Department of Defense contractor.**

(3) **The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.**

SECTION 5. IC 36-7-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified

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technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

**(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this chapter.**

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.

SECTION 6. IC 36-7-32-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) Two (2) or more redevelopment commissions may enter into a written agreement under this section to jointly undertake economic development projects in the certified technology parks established by the redevelopment commissions that are parties to the agreement.**

**(b) A party to an agreement under this section may do one (1) or more of the following:**

**(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.**

**(2) Exercise any power granted to it by a party to the agreement.**

**(3) Pledge any of its revenues, including taxes or allocated taxes under section 17 of this chapter, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.**

**(c) A redevelopment commission may not grant to another redevelopment commission the power to tax or to establish an allocation area under this chapter.**

**(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.**

SECTION 7. IC 36-7-32-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2005]: **Sec. 27. An agreement described in section 26 of this chapter must provide for the following:**

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
- (5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.
- (6) Any other appropriate matters.

SECTION 8. IC 36-7-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

**Chapter 34. Qualified Military Base Enhancement Area**

**Sec. 1. "Area" refers to a qualified military base enhancement area established by this chapter.**

**Sec. 2. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.**

**Sec. 3. "Qualified military base" means a United States government military installation that:**

- (1) has an area of at least sixty thousand (60,000) acres; and
- (2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

**Sec. 4. A qualified military base enhancement area is established for each technology park located within a radius of five (5) miles of a qualified military base. The geographic area of the qualified military base enhancement area is the geographic area of the technology park.**

**Sec. 5. The department of commerce shall do the following:**

- (1) Coordinate area development activities.
- (2) Serve as a catalyst for area development.
- (3) Promote the area to outside groups and individuals.
- (4) Establish a formal line of communication with businesses in the area.
- (5) Act as a liaison between businesses and local governments for any development activity that may affect the area.
- (6) Act as a liaison between the area and residents of nearby communities.

SECTION 9. [EFFECTIVE JANUARY 1, 2006] (a) IC 6-2.5-4-5,

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1 as amended by this act, applies to services or commodities sold  
2 after December 31, 2005, to a business located in a qualified  
3 military base enhancement area established under IC 36-7-34, as  
4 added by this act.

5 (b) IC 6-3-2-1.5, as amended by this act, applies to taxable years  
6 beginning after December 31, 2005.

7 (c) IC 6-3.1-11.6-2 and IC 6-3.1-11.6-9, both as amended by this  
8 act, apply to taxable years beginning after December 31, 2005.

9 SECTION 10. [EFFECTIVE JULY 1, 2005] (a) The department  
10 of environmental management shall give priority to permit  
11 applications that concern:

12 (1) current or former United States government military  
13 bases or other military installations; and

14 (2) the destruction, reclamation, recycling, reprocessing, or  
15 demilitarization of ordnance and other explosive materials.

16 (b) This SECTION expires July 1, 2008.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1066, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 5. IC 36-7-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

- (1) property tax proceeds allocated under section 17 of this chapter; and
- (2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

- (1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.
- (2) Operation of public facilities described in section 9(2) of this chapter.
- (3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.
- (4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).
- (5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.
- (6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).
- (7) Payment of amounts due under leases payable from money deposited in the fund.
- (8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.
- (9) Payment of expenses incurred by the redevelopment

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commission for public facilities that are in the certified technology park or serving the certified technology park.

**(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this chapter.**

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.

SECTION 6. IC 36-7-32-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) Two (2) or more redevelopment commissions may enter into a written agreement under this section to jointly undertake economic development projects in the certified technology parks established by the redevelopment commissions that are parties to the agreement.**

**(b) A party to an agreement under this section may do one (1) or more of the following:**

**(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.**

**(2) Exercise any power granted to it by a party to the agreement.**

**(3) Pledge any of its revenues, including taxes or allocated taxes under section 17 of this chapter, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.**

**(c) A redevelopment commission may not grant to another redevelopment commission the power to tax or to establish an allocation area under this chapter.**

**(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.**

SECTION 7. IC 36-7-32-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. An agreement described in section 26 of this chapter must provide for the following:**

**(1) Its duration.**

**(2) Its purpose.**

**(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.**

**(4) The methods that may be employed in accomplishing the**

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**partial or complete termination of the agreement and for disposing of property upon partial or complete termination.**

**(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.**

**(6) Any other appropriate matters."**

Page 6, after line 10, begin a new paragraph and insert:

**"SECTION 7. [EFFECTIVE JULY 1, 2005] (a) The department of environmental management shall give priority to permit applications that concern:**

**(1) current or former United States government military bases or other military installations; and**

**(2) the destruction, reclamation, recycling, reprocessing, or demilitarization of ordnance and other explosive materials.**

**(b) This SECTION expires July 1, 2008."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1066 as introduced.)

BORROR, Chair

Committee Vote: yeas 12, nays 0.

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